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DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket ID ED-2014-OPE-0161]

RIN 1840-AD18

Negotiated Rulemaking Committee; Negotiator Nominations and Schedule of Committee Meetings--William D. Ford Federal Direct Loan Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of intent to establish negotiated rulemaking committee.

SUMMARY: We announce our intention to establish a negotiated rulemaking committee to prepare proposed regulations governing the William D. Ford Federal Direct Loan (Federal Direct Loan) Program authorized under title IV of the Higher Education Act of 1965, as amended (HEA). The committee will include representatives of organizations or groups with interests that are significantly affected by the topics proposed for negotiations. We request nominations for individual negotiators who represent key stakeholder constituencies for the issues to be negotiated to serve on the committee, and we set a schedule for committee meetings.

DATES: We must receive your nominations for negotiators to serve on the committee on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The dates, times, and locations of the committee meetings are set out in the Schedule for Negotiations section in the SUPPLEMENTARY INFORMATION section.

ADDRESSES: Please send your nominations for negotiators to Wendy Macias, U.S. Department of Education, 1990 K Street, NW., room 8017, Washington, DC 20006. Telephone: (202) 502-7526 or by email: wendy.macias@ed.gov.

FOR FURTHER INFORMATION CONTACT: For information about the content of this notice, including information about the negotiated rulemaking process or the nomination submission process, contact: Wendy Macias, U.S. Department of Education, 1990 K Street, NW., room 8017, Washington, DC 20006. Telephone: (202) 502-7526 or by email: wendy.macias@ed.gov.

For information about negotiated rulemaking in general, see The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions at <http://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html>.

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS) toll free at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On September 3, 2014, we published a notice in the Federal Register (79 FR 52273) announcing our intent to establish a negotiated rulemaking committee under section 492 of the HEA to develop proposed regulations to allow more student borrowers of Federal Direct Loans to use a "Pay as You Earn" repayment plan in accordance with the Presidential Memorandum issued on June 9, 2014 (available at [www.whitehouse.gov/the-press-office/2014/06/09/presidential-memorandum-federal-student-loan-repayments](http://www.whitehouse.gov/the-press-office/2014/06/09/presidential-memorandum-federal-student-loan-repayments)). We also announced two public hearings at which interested parties could comment on the topic suggested by the U.S Department of Education (Department) and suggest additional topics for consideration for action by the negotiated rulemaking committee. Those hearings were held on October 23, 2014, in Washington, DC, and on November 4, 2014, in Anaheim, California. We invited parties to comment and submit topics for consideration in writing as well. Transcripts from the public hearings are available at <http://www2.ed.gov/policy/highered/reg/hearulemaking/2015/index.html>. Written comments submitted in response to the

September 3, 2014, notice may be viewed through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Instructions for finding comments are available on the site under "How to Use Regulations.gov" in the Help section. Individuals can enter docket ID ED-2014-OPE-0124 in the search box to locate the appropriate docket.

Regulatory Issues: After considering the information received at the regional hearings and the written comments, we have decided to establish a negotiating committee to (1) prepare proposed regulations to establish a new Pay as You Earn repayment plan for those not covered by the existing Pay as You Earn Repayment Plan in the Federal Direct Loan Program, and (2) establish procedures for Federal Family Education Loan (FFEL) Program loan holders to use to identify U.S. military servicemembers who may be eligible for a lower interest rate on their FFEL Program loans under section 527 of the Servicemembers Civil Relief Act (SCRA).

Under the Department's current regulations, once a loan holder (the Secretary or a FFEL loan holder) receives a servicemember's written request and a copy of the servicemember's military orders, the maximum interest rate on any Federal Direct Loan or FFEL program loan made prior to the borrower entering active-duty status is six percent while the borrower is on active-duty status. (See 34 CFR

685.202(a)(4) and 682.202(a)(8)). On August 25, 2014, the Department published Dear Colleague Letter GEN-14-16 (available at <http://ifap.ed.gov/dpcletters/GEN1416.html>) announcing that the Department had adopted new procedures for determining a borrower's eligibility for benefits under the SCRA and authorizing FFEL loan holders to adopt similar procedures. The Department now seeks to include those procedures in the regulations and to require FFEL loan holders to use those procedures.

These topics are tentative. Topics may be added or removed as the process continues.

We intend to select negotiators for the committee who represent the interests significantly affected by the topics proposed for negotiations. In so doing, we will follow the requirement in section 492(b)(1) of the HEA that the individuals selected must have demonstrated expertise or experience in the relevant topics proposed for negotiations. We will also select individual negotiators who reflect the diversity among program participants, in accordance with section 492(b)(1) of the HEA. Our goal is to establish a committee that will allow significantly affected parties to be represented while keeping the committee size manageable.

We generally select a primary and alternate negotiator for each constituency represented on the committee. The primary negotiator participates for the purpose of determining consensus. The alternate participates for the purpose of determining consensus in the absence of the primary. Either the primary or the alternate may speak during the negotiations.

The committee may create subgroups on particular topics that may involve individuals who are not members of the committee. Individuals who are not selected as members of the committee will be able to observe the committee meetings, will have access to the individuals representing their constituencies, and may be able to participate in informal working groups on various issues between the meetings.

Constituencies: We have identified the following constituencies as having interests that are significantly affected by the topics proposed for negotiations. The Department plans to seat as negotiators individuals from organizations or groups representing these constituencies:

- Students.
- Legal assistance organizations that represent students.
- Consumer advocacy organizations.

- Groups representing U.S. military servicemembers or veterans.
- Financial aid administrators at postsecondary institutions.
- State attorneys general and other appropriate State officials.
- Institutions of higher education eligible to receive Federal assistance under title III, parts A, B, and F, and title V of the HEA, which include Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, Predominantly Black Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.
- Two-year public institutions of higher education.
- Four-year public institutions of higher education.
- Private, nonprofit institutions of higher education.
- Private, for-profit institutions of higher education.
- FFEL Program lenders and loan servicers.

- FFEL Program guaranty agencies and guaranty agency servicers (including collection agencies).

The goal of the committee is to develop proposed regulations that reflect a final consensus of the committee. Consensus means that there is no dissent by any member of the negotiating committee, including the committee member representing the Department. An individual selected as a negotiator will be expected to represent the interests of his or her organization or group and participate in the negotiations in a manner consistent with the goal of developing proposed regulations on which the committee will reach consensus. If consensus is reached, all members of the organization or group represented by a negotiator are bound by the consensus and are prohibited from commenting negatively on the resulting proposed regulations. The Department will not consider any such negative comments on the proposed regulations that are submitted by members of such an organization or group.

Nominations: Nominations should include:

- The name of the nominee, the organization or group the nominee represents, and a description of the interests that the nominee represents.



- Evidence of the nominee's expertise or experience in the topics proposed for negotiations.
- Evidence of support from individuals or groups within the constituency that the nominee will represent.
- The nominee's commitment that he or she will actively participate in good faith in the development of the proposed regulations.
- The nominee's contact information, including address, phone number, and email address.

For a better understanding of the negotiated rulemaking process, nominees should review The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions at <http://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html> prior to committing to serve as a negotiator.

Nominees will be notified whether or not they have been selected as negotiators as soon as the Department's review process is completed.

Schedule for Negotiations: The committee will meet for three sessions on the following dates:

Session 1: February 24-26, 2015

Session 2: March 31-April 2, 2015

Session 3: April 28-30, 2015

Sessions will run from 9 a.m. to 5 p.m.

The committee meetings will be held at the U.S.

Department of Education at:

1990 K Street, NW.

Eighth Floor Conference Center

Washington, DC 20006

The meetings are open to the public.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting Wendy Macias, U.S. Department of Education, 1990 K Street, NW., room 8017, Washington, DC 20006. Telephone: (202) 502-7526 or by email: [wendy.macias@ed.gov](mailto:wendy.macias@ed.gov).

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Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the Federal Register by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1098a.

Dated: December 16, 2014.

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Lynn B. Mahaffie,  
Acting Assistant Secretary  
for Postsecondary Education.

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